

GARMAN TURNER GORDON LLP
GERALD M. GORDON
Nevada Bar No. 229
E-mail: ggordon@gtg.legal
MARK M. WEISENMILLER
Nevada Bar No. 12128
E-mail: mweisenmiller@gtg.legal
7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
Telephone (725) 777-3000
Facsimile (725) 777-3112
Attorneys for the Herbst Defendants

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

PAUL A. MORABITO,

Debtor.

Case No.: BK-S-13-51237-GWZ

Chapter: 7

NOTICE OF APPEAL AND STATEMENT OF ELECTION
TO HAVE APPEAL HEARD BY THE DISTRICT COURT

JH, Inc. (“JH”), Maryanna Herbst as Trustee of the Herbst Family Trust dated December 17, 2002 (“Trust”), and Berry-Hinckley Industries (“BHI” and together with JH and the Trust, the “Herbst Parties”), and Timothy P. Herbst, Troy D. Herbst, and Edward J. Herbst (together, the “Additional Defendants,” and with the Herbst Parties, the “Herbst Defendants”) appeal under 28 U.S.C. § 158(a) and Rule 8001 of the Federal Rules of Bankruptcy Procedure from the *Order Imposing Sanctions Against Jeffrey Hartman, Esq. and Hartman & Hartman and David Houston, Esq. and the Law Offices of David R. Houston Pursuant to Bankruptcy Rule 9011* [ECF No. 1155] (the “Order”) entered in the Bankruptcy Court on the 17th day of May 2021, a copy of which is attached hereto as **Exhibit 1**.

The names of all parties to the Order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

APPELLANTS:

Herbst Defendants
GERALD M. GORDON, ESQ.
MARK M. WEISENMILLER, ESQ.

Garman Turner Gordon LLP

7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
Telephone: 725.777.3000
Facsimile: 725.777.3112
E-Mail: ggordon@gtg.legal
mweisenmiller@gtg.legal

APPELLEES:

*Jeffrey Hartman, Esq. and Hartman & Hartman and
David Houston, Esq., and the Law Offices of David R. Houston*

KENT R. ROBISON, ESQ.

HANNAH WINSTON, ESQ.

Robison, Sharp, Sullivan & Brust

71 Washington Street
Reno, NV 89503
Telephone: 775.329.3151
Facsimile: 775.329.7169
E-Mail: krobison@rssblaw.com
hwinston@rssblaw.com

Pursuant to 28 U.S.C. § 158(c)(1)(B), Rules 8001 and 8005 of the Federal Rules of Bankruptcy Procedure, and Rule 8001 of the Local Rules of the Bankruptcy Practice for the U.S. District Court for the District of Nevada, Appellants Herbst Defendants hereby elect to have the appeal from the Order, heard by the United States District Court for the District of Nevada, rather than by the United States Bankruptcy Appellate Panel for the Ninth Circuit (the “BAP”).

DATED this 31st day of May, 2021.

GARMAN TURNER GORDON LLP

By: /s/ Mark M. Weisenmiller
GERALD M. GORDON, ESQ.
MARK M. WEISENMILLER, ESQ.
7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
Telephone: (725)-777-3000
Fax: (725)-777-3112
Attorneys for the Herbst Defendants

EXHIBIT 1

EXHIBIT 1

Gregg W. Zive

Honorable Gregg W. Zive
United States Bankruptcy Judge



Entered on Docket
May 17, 2021

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

PAUL A. MORABITO,

Debtor.

Case No.: BK-S-13-51237-GWZ
Chapter: 7

Hearing:

Date: February 4, 2021

Time: 10:00 a.m.

**ORDER GRANTING MOTION FOR AN ORDER IMPOSING SANCTIONS AGAINST
JEFFREY HARTMAN, ESQ. AND HARTMAN & HARTMAN AND DAVID
HOUSTON, ESQ. AND THE LAW OFFICES OF DAVID R. HOUSTON
PURSUANT TO BANKRUPTCY RULE 9011**

The *Motion for an Order Imposing Sanctions Against Jeffrey Hartman, Esq. and Hartman & Hartman and David Houston, Esq. and the Law Offices of David R. Houston Pursuant to Bankruptcy Rule 9011* [ECF No. 1099] ("Sanctions Motion")¹ was filed by JH, Inc. ("JH"), Maryanna Herbst as Trustee of the Herbst Family Trust dated December 17, 2002 ("Trust"), and Berry-Hinckley Industries ("BHI" and together with JH and the Trust, the "Herbst Parties"), and Timothy P. Herbst, Troy D. Herbst, and Edward J. Herbst (together, the "Additional Defendants," and with the Herbst Parties, the "Herbst Defendants") on May 29, 2020. The Sanctions Motion came on for a hearing before the Court on February 4, 2021, at 10:00 a.m. ("Hearing"). Gerald M. Gordon, Esq. and Mark M. Weisenmiller, Esq. appeared on behalf of the Herbst Defendants and Kent R. Robison, Esq. and Hannah E. Winston, Esq. appeared on behalf of Jeffrey Hartman, Esq. and Hartman & Hartman (collectively, "Hartman") and David Houston, Esq., and the Law Offices of David R. Houston (collectively, "Houston").

¹ All capitalized undefined terms used herein shall be ascribed the definitions set forth in the Herbst Defendants' Sanctions Motion and Reply, as applicable.

1 Based upon the *Findings of Fact and Conclusions of Law in Support of Order Granting*
2 *Motion for an Order Imposing Sanctions Against Jeffrey Hartman, Esq. and Hartman &*
3 *Hartman and David Houston, Esq. and the Law Offices of David R. Houston Pursuant to*
4 *Bankruptcy Rule 9011* entered concurrently herewith, which is incorporated into this Order by
5 reference, it having been determined after the Hearing on notice that all notice and service
6 having been proper under the Bankruptcy Code and Bankruptcy Rules, and good cause
7 appearing;

8 **IT IS HEREBY ORDERED, ADJUDGED and DECREED** as follows:

- 9 1. The Sanctions Motion is granted as set forth herein.
- 10 2. Hartman and Houston shall pay the Herbst Defendants \$50,000 twenty-eight days
11 following entry of this Order.
- 12 3. The obligation to pay the Herbst Defendants \$50,000 is a joint and several
13 obligation among Hartman and Houston.

14 **IT IS SO ORDERED.**

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